

# **EXHIBIT 1**

**EXHIBIT 1**

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 MICHAEL ERWINE, an )  
individual, )  
5 )  
Plaintiff, )  
6 )  
vs. )  
7 )  
CHURCHILL COUNTY, a political )  
8 subdivision of the State of )  
Nevada; CHURCHILL COUNTY SHERIFF )  
9 BENJAMIN TROTTER; and DOES )  
1 through 10, inclusive, )  
10 )  
Defendants. )  
11 \_\_\_\_\_ )

CASE NO.  
3:18-cv-00461  
RCJ-WGC

12

13

14 REMOTE VIDEOCONFERENCE  
15 DEPOSITION OF MICHAEL ANDREW ERWINE

16 Taken on Thursday, December 17, 2020

17 At 8:59 a.m.

18

19 Reno, Nevada

20

21

22

23

24 Job No. 688466

25 Reported by: Sherry L. Graham, CCR #378

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1 Q. When did you first obtain employment after  
2 you received your criminal justice Associate's  
3 degree?

4 A. That would have been -- I believe my first  
5 employment after I received that degree would have  
6 been with a company called Allied Barton Security  
7 Services. They were a security firm. I believe now  
8 they are referred to as Allied Universal.

9 Q. How long have you been employed at the  
10 Washoe Tribe?

11 A. Since November of last year.

12 Q. And what is your position?

13 A. Police officer.

14 Q. Are you a probationary officer or have you  
15 completed any probationary period, if there was one?

16 A. I completed my one-year probation.

17 Q. What are your current duties?

18 A. I always have difficulty answering that.  
19 Just general police duties. Everything you can  
20 imagine a general law enforcement officer handles.  
21 We are a fairly small department, so we don't have  
22 other units to do in-depth investigations or  
23 anything like that. So depending upon the incident,  
24 the officer will pretty much handle it from  
25 beginning to end no matter the severity.

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1 Q. Who is your supervisor?

2 A. Right now, my supervisor is Sergeant Mike  
3 Hall. But we have two different sergeants as well  
4 as a deputy chief and chief, and we pretty much kind  
5 of work underneath all of them depending upon who's  
6 there that day.

7 Q. How many law enforcement officers are in  
8 the department or agency?

9 A. I believe 14.

10 Q. What is your rate of pay?

11 A. 25.85.

12 Q. Are there any benefits that you receive in  
13 addition to salary?

14 A. That's hourly. The 25.85 is hourly. In  
15 addition to that, I receive medical and just medical  
16 benefits, including dental and vision.

17 Q. And do you contribute something in terms of  
18 premium for your benefits?

19 A. No.

20 Q. Is there a retirement program that is  
21 available to you in connection with your employment  
22 with the Washoe Tribe?

23 A. There is not. We don't get any of the like  
24 you have for the other agencies, such as Nevada PERS  
25 or something like that. We don't have that.

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1 Q. What shift do you currently work in your  
2 job with the Washoe Tribe?

3 A. We rotate quite frequently. My schedule  
4 currently is Saturday -- I'm sorry. Friday through  
5 Monday from 7:00 a.m. to 5:00 p.m.

6 Q. Since going to work for the Washoe Tribe in  
7 November of 2019, have you applied to any other law  
8 enforcement agencies?

9 A. No.

10 Q. Do you enjoy your position with the Washoe  
11 Tribe?

12 A. It's not the most desirable position for  
13 me, but it is a job in the field that I wish to work  
14 in.

15 Q. Prior to working for the Washoe Tribe,  
16 where were you employed?

17 A. I was employed by Triumph Protection Group.  
18 They were a private security contractor based out of  
19 California.

20 Q. Mr. Erwine, I would like you to take a look  
21 at, and these are -- this is an exhibit from the  
22 documents that I forwarded to everyone yesterday.  
23 That is a document from Triumph Protection Group  
24 Bates stamp Erwine 000620, So the number's in the  
25 bottom right-hand corner. It is a one-page document

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1 told them what I needed and this is what they  
2 provided me.

3 Q. How long did you work for Triumph  
4 Protection Group?

5 A. It looks like 6/28 of 2018 to February 27th  
6 of 2019.

7 Q. How did you come to be employed by Triumph  
8 Protection Group?

9 A. I was looking for a job in the security  
10 field -- well, law enforcement and/or security. I  
11 knew people that were working in the security field.  
12 They made me aware of that job. That was -- it's  
13 actually up in Incline, Nevada is where I worked.  
14 And I applied for it and got offered a position.

15 Q. What did you do for Triumph Protection  
16 Group?

17 A. I did a couple of different assignments for  
18 them. The majority, probably 95 percent of the time  
19 was working at a private residence up in Incline, in  
20 Tahoe, just providing security to that residence and  
21 its occupants.

22 Q. You were paid at a rate of \$25 per hour in  
23 that position?

24 A. Yes.

25 Q. And to whom did you report?

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1 MR. BUSBY: Okay. Got it. Thank you.

2 BY MS. PARKS:

3 Q. Having you take a look at what's been  
4 marked as Exhibit Number 2 to your deposition, do  
5 you recognize that, Mr. Erwine?

6 A. Yes.

7 Q. What do you recognize Exhibit Number 2 to  
8 be?

9 A. This was my employment -- various paperwork  
10 from my employment offer at the Washoe Tribe.

11 Q. If you would please turn to page 2 of  
12 Exhibit Number 2, is that your signature towards the  
13 bottom of the document?

14 A. Yes.

15 Q. And this document is dated July 11, 2019,  
16 correct?

17 A. Yes.

18 Q. And so is that when you accepted the job  
19 with the Washoe Tribe?

20 A. So the employment process in law  
21 enforcement varies between agency and agency in my  
22 experience. I believe the way this worked out, the  
23 reason the date's the way they are, I was offered  
24 the employment after my interview with them, but it  
25 was contingent upon successfully completing their

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1 agencies, you are basically graded everyday for  
2 approximately three months. Those are pictures that  
3 the program -- that they use there for grading was  
4 actually electronic. That was, that was the first  
5 time I have seen such a thing. Normally, they are  
6 on paper. They use theirs electronically on the  
7 computer. Those are broken down into dates with  
8 numbers associated with -- some numbers are better  
9 than others. There were different categories, but  
10 that is basically a picture of those daily reviews,  
11 if you will, and its associated numbers.

12 Q. Are these photographs that you took with  
13 your phone or some other device?

14 A. Yes.

15 Q. So these are basically photographs that you  
16 took on your phone?

17 A. That's a picture of the computer screen,  
18 yes.

19 Q. How much was your salary or your hourly  
20 rate of pay at the Paiute Tribe?

21 A. \$19.44 an hour.

22 Q. What were your duties there?

23 A. Same duties as I have right now, general  
24 police officer duties. Everything from minor  
25 traffic enforcement to in-depth investigations of

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1 crimes.

2 Q. Did the Paiute -- does the Paiute Tribe  
3 have a detention division or were you a patrol  
4 officer or both?

5 A. No, it didn't have a detention division. I  
6 was just a patrol officer.

7 Q. Where are the offices of the Paiute Tribe  
8 located?

9 A. Their administrative office and police  
10 department are located in Nixon, Nevada. It's just  
11 south Pyramid Lake outside of Wadsworth.

12 Q. Is that where you reported for duty?

13 A. That was our office. We didn't always go  
14 there to report for duty. Basically, when we hit  
15 inside of our jurisdiction, that would be us  
16 reporting for duty. Me being a trainee and always  
17 having a training officer, I essentially drove to  
18 their house every morning and we left from their  
19 house, is where I had to report personally.

20 Q. How many members or officers did the Paiute  
21 Tribe have at the time that you worked there?

22 A. I don't recall specifically, but I do  
23 believe it was even less than the department I have  
24 now, so I would say less than ten.

25 Q. Your answers to interrogatories, written

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1 questions that I asked you through your attorney,  
2 are included in the exhibits that I provided  
3 previously, if you could look for those.

4 A. Yes, I have them.

5 Q. Those are going to be marked as Exhibit  
6 Number 5 to your deposition. It appears that maybe  
7 the page numbers at the bottom were cutoff in the  
8 course of these being copied, Mr. Erwine, but if you  
9 look to page 5 -- actually page 6, answer to  
10 Interrogatory Number 9.

11 MR. BUSBY: For the record, I'm going to  
12 preserve our objection as stated in the answer to  
13 the interrogatory.

14 Go ahead.

15 MS. PARKS: And you can let me know when  
16 you get there.

17 THE WITNESS: I'm there.

18 MS. PARKS: All right.

19 BY MS. PARKS:

20 Q. According to your interrogatory responses,  
21 you worked for the Paiute Tribe from January 8th of  
22 2018 to April 4th of 2018. Do you see that there?

23 A. Yes.

24 Q. And your last day of employment with the  
25 Churchill County sheriff's office was when?

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1 interrupt. I actually -- do you mind if we take a  
2 quick bathroom break?

3 MS. PARKS: Yeah. That's fine.

4 (Brief recess.)

5 BY MS. PARKS:

6 Q. Mr. Erwine, according to your response  
7 to Interrogatory Number 9, your last day of  
8 employment with the Pyramid Lake Paiute Tribe was  
9 April 4, 2018. Does that sound right to you?

10 A. Yes.

11 Q. Tell me the reasons why you were informed  
12 that you would no longer be working for the Paiute  
13 Tribe.

14 A. Basically, according to what they told me,  
15 I just did not complete the training process  
16 successfully.

17 Q. Okay. Did you ask for any particulars with  
18 respect to how you failed to complete the field  
19 training program?

20 A. I did inquire a little bit. I didn't  
21 really get much answers other than I just was not at  
22 the level that they expected me to be at.

23 Q. Did you have any issues or difficulties,  
24 any particular incidents that stick out in your mind  
25 during your training program at the Paiute Tribe

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1 A. I apologize. I spoke over you.

2 This was provided to me by the employer as  
3 a request just to provide my wages while I worked  
4 there.

5 Q. All right. You worked for Allied Universal  
6 then prior to working for the Pyramid Lake Paiute  
7 Tribe?

8 A. Yes.

9 Q. What did you do for Allied Universal?

10 A. I was an armed security guard. I worked  
11 various different assignments and locations in the  
12 Reno area.

13 Q. And when did you become employed with  
14 Allied Universal?

15 A. Oh, boy. I'm not sure if it's -- I believe  
16 it is referenced in this document on page 1.  
17 January 4th of 2018, I believe. No. That's when I  
18 had left. Sorry. April 25th of 2017. Just to be  
19 clear, the reason there are a couple dates there, I  
20 worked for Allied Universal more than once.

21 Q. All right. Immediately prior to going to  
22 work for the Pyramid Lake Paiute Tribe when you  
23 worked for Allied Universal, what was your rate of  
24 pay?

25 A. 15.30 an hour is what the document states.

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1 MS. PARKS: Thank you.

2 BY MS. PARKS:

3 Q. Looking at what's been marked as Exhibit  
4 Number 7 to your deposition, Mr. Erwine, do you  
5 recognize that?

6 A. Yes.

7 Q. What is it Exhibit Number 7?

8 A. Background investigation packet I filled  
9 out for the Washoe County Sheriff's Office.

10 Q. When did you fill out this packet?

11 A. I filled this out as an application  
12 pursuant to an application I filled out prior to my  
13 employment with Churchill County.

14 Q. That is your handwriting there on the first  
15 page of Exhibit Number 7?

16 A. Yes.

17 Q. It appears that you submitted this  
18 background packet on or about October 5th of 2015;  
19 is that correct?

20 A. Correct.

21 Q. If you would look -- and I'm going to refer  
22 to Bates stamp numbers on this document as well as  
23 there are some page numbers as well. So if you look  
24 at page number 9 to Exhibit 7, it's WC 0089 at the  
25 bottom.

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1 agencies you have applied to."

2 Do you see that there?

3 A. Yes.

4 Q. The first such agency listed says Sparks  
5 Police Department, correct?

6 A. Yes.

7 Q. It says that you applied to the Sparks  
8 Police Department on June 15th -- excuse me. June  
9 of 2015, correct?

10 A. Yes.

11 Q. In connection with your application to the  
12 Sparks Police Department, did you fill out a written  
13 application for that agency?

14 A. I don't recall if it would have been  
15 written or online. This was quite some time ago.

16 Q. Sorry.

17 Did you keep any written documents related  
18 to your application for employment with the Sparks  
19 Police Department in June of 2015?

20 A. No. All application documents related to  
21 law enforcement applications I believe you already  
22 requested. Everything in my possession has already  
23 been disclosed.

24 Q. Were you interviewed for a law enforcement  
25 position with the Sparks Police Department?

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1 A. Yes.

2 Q. And if you applied in June of 2015, do you  
3 recall when you were interviewed?

4 A. I don't recall. It would have been within  
5 a year.

6 Q. Sorry. I didn't mean to interrupt you  
7 there.

8 Do you recall the name of the individual  
9 who interviewed you?

10 A. I do recall that interview panel was  
11 actually about the biggest interview panel I have  
12 ever had. It was probably about ten people.

13 Q. How were you notified that you were not  
14 selected for a law enforcement position with the  
15 Sparks Police Department?

16 A. I was brought back in after the interview  
17 to the panel and they told me that I wasn't  
18 selected.

19 Q. Did they give you any reasons as to why you  
20 were not selected for that position?

21 A. They said, at that time during that  
22 application pool, they had a lot of other candidates  
23 that were previous or current law enforcement  
24 officers looking to go to that agency and they  
25 wanted someone that had more experience. At that

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1 time, I did not really have any, so they were  
2 looking for someone that was a little bit more  
3 experienced.

4 Q. Did you provide the Sparks Police  
5 Department with information about the DUI you got in  
6 June of 2011 --

7 A. Yes.

8 Q. -- in connection with your application?

9 A. Yes. I disclose that to all law  
10 enforcement agencies.

11 Q. The next agency on the list is the Lyon  
12 County Sheriff's Office, it indicates that you  
13 applied in April of 2015. Do you see that there?

14 A. Yes.

15 Q. Were you interviewed by the Lyon County  
16 Sheriff's Office for a deputy sheriff position?

17 A. I don't recall.

18 Q. You were not selected for a position with  
19 the Lyon County Sheriff's Office though, correct?

20 A. Yes, I was not selected there. From my  
21 recollection of that application, the list of  
22 applicants, we were notified by the human resources  
23 department that they expired. It's not like I was  
24 disqualified. The list had just expired. If I  
25 wished to apply again, I could.

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1 Q. Well, did you receive some sort of  
2 correspondence that outlined that information or  
3 contained that information?

4 A. That would have been a verbal phone call  
5 from human resources, from the best of my  
6 recollection.

7 Q. Did you reapply to the Lyon County  
8 Sheriff's Office at any time?

9 A. No.

10 Q. Why did you not reapply to the Lyon County  
11 Sheriff's Office after that point? Perhaps they  
12 didn't have any openings, but why had you not  
13 reapplied there?

14 A. It could have been because they didn't have  
15 very many openings or, honestly, it's not one of the  
16 agencies I would wish to work at right now.

17 Q. This also indicates that you had applied at  
18 Fallon Tribal Police; is that correct?

19 A. Yes.

20 Q. I believe it said you applied in April of  
21 2015, correct?

22 A. Yes.

23 Q. And you were not selected for a position as  
24 a police officer with the Fallon Tribal Police;  
25 correct?

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1 A. Yes.

2 Q. Were you given any information as to why  
3 you were not selected for that position?

4 A. Yes. It was between me and another  
5 candidate who was actually Native American from that  
6 tribe. In my experience, the tribal police  
7 departments, Native Americans get preference for  
8 employment over non-natives. Being he was living in  
9 Fallon as well as a Native American member of that  
10 tribe, he was selected over me.

11 Q. Who told you that? How did you come by  
12 that information?

13 A. I believe I had a friend that worked at the  
14 tribe at that time.

15 Q. What's the friend's name?

16 A. Bradley Harris. It would have been  
17 Officer Harris. He was a police officer.

18 Q. Are you still friends with Bradley Harris?

19 A. Yes.

20 Q. When is the last time you talked to him?

21 A. Yesterday.

22 Q. Do you have a telephone number for him?

23 A. I do. I should, just in full disclosure,  
24 he is actually a current coworker of mine. He now  
25 works for the Washoe Tribal Police Department as a

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1 police officer.

2 Q. The next agency on the list is the Washoe  
3 Tribal Police. Do you see that there?

4 A. Yes.

5 Q. And it states that you applied in 2011,  
6 correct?

7 A. Yes.

8 Q. And you were not selected for a position,  
9 correct?

10 A. Correct.

11 Q. Were you given any information as to why  
12 you were not selected as a police officer for the  
13 Washoe Tribal Police?

14 A. That determination, from my recollection,  
15 was after an interview. That was right after I  
16 graduated the police academy, and I believe, like,  
17 ten of us out of the academy applied there. They  
18 were only taking one person. I was not that one  
19 person selected at that time out of, like, the ten  
20 of us that applied. There had been other people  
21 that had a lot more experience than me at that time.

22 Q. Did you apply for that position before or  
23 after you got a DUI?

24 A. That probably would have been before. I  
25 wouldn't have applied anywhere right after just from

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1 Q. Right.

2 Underneath Number 2 there, it says, "Your  
3 starting wage will be 21.44 per hour."

4 Do you see that there?

5 A. Yes.

6 Q. That was your starting salary with the  
7 Churchill County Sheriff's Office, correct?

8 A. Yes.

9 Q. Did you ever receive an increase in pay  
10 while you worked for the Churchill County Sheriff's  
11 Office?

12 A. I don't believe so. I think it would have  
13 been at my annual that I would have received a  
14 category bump as well as an annual bump.

15 Q. But throughout then your period of  
16 employment with Churchill County that was your  
17 hourly wage?

18 A. Yes. I believe so.

19 Q. If you look at the bottom there, is that  
20 your signature at the bottom right of Exhibit  
21 Number 10?

22 A. Yes.

23 Q. If you could look at the next exhibit,  
24 Mr. Erwine. It's called Acknowledgement of  
25 Acceptance. It's Churchill County Human Resources

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1 Q. All right. Have you ever gone out for  
2 drinks or other social interaction with  
3 Mr. Giurlani?

4 A. Just the dinner or the dinners.

5 Q. Can you think of how many dinners you have  
6 attended with him?

7 A. I don't know off the top of my head.

8 Q. Have you ever participated in any other  
9 social activities with him, such as going to  
10 sporting events or playing sports or anything like  
11 that?

12 MR. BUSBY: I'm going to object. This  
13 question has been asked, I think, three different  
14 times already, different forms, and the witness has  
15 already provided an answer.

16 Go ahead, Mike.

17 THE WITNESS: No. I don't recall any  
18 activities of those types that we attended together.

19 BY MS. PARKS:

20 Q. Prior to your termination from employment  
21 with the Churchill County Sheriff's Office, did you  
22 have contact with Mr. Giurlani and speak with him  
23 about any of the alleged improprieties that you  
24 observed while working in the Churchill County Jail?

25 A. Yes, I had spoke with him about some of the

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1 things I had seen.

2 Q. That was while you were still employed by  
3 the Churchill County Sheriff's Office?

4 A. Yes.

5 Q. And what is it that you reported to  
6 Mr. Giurlani?

7 A. I reported largely to the extent of the  
8 things that are in my complaint, the things I saw,  
9 the things I didn't feel were appropriate. I looked  
10 at Mr. Giurlani as kind of a mentor, if you will,  
11 that's what our relationship was in the academy. I  
12 respected him. I looked up to him. I asked for a  
13 little bit of advice being a new cop and new to the  
14 agency and basically a young cop at the time, which  
15 I still am, I was looking for some advice about how  
16 to handle the situations I had saw and that. I  
17 disclosed to him things that were disclosed in my  
18 complaint.

19 Q. All right. How many conversations did you  
20 have with him about alleged improprieties that you  
21 observed at the Churchill County Jail?

22 A. I don't recall the exact number.

23 Q. Do you recall more than one?

24 A. Yes, I would say it's fair to say more than  
25 one.

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1 A. I did speak with him briefly, yes.

2 Q. Did you ask him any questions about your  
3 separation from employment?

4 A. Yeah. From what I can recall -- because I  
5 was -- I always had a very good working relationship  
6 with him. He always treated me fairly. I remember  
7 basically asking him, you know -- I think I even  
8 called him Mike because we were on kind of a  
9 first-name basis with a lot of people out there. I  
10 said, Mike, what happened. What did I do. I will  
11 never forget his response. He said, I think you  
12 were just trying to be a cop too hard or too much.

13 Q. Did you ask him what he meant by that?

14 A. I might have inquired into it, but I didn't  
15 get an answer.

16 Q. Did you ask him if there was any way they  
17 might reconsider their decision?

18 A. No. It was evident from the demeanor that  
19 day that there was no reconsidering that.

20 Q. Did you ask them if there was a possibility  
21 that you could have some sort of hearing to further  
22 state your perspective on what had taken place?

23 A. No. I had tried in the previous meeting  
24 and I was cutoff.

25 Q. Which previous meeting?

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1           A.    The meeting we just discussed in the office  
2    with -- in Sergeant Nuckolls' office with Trotter  
3    and Matheson.

4           Q.    I don't think that I, I don't think that I  
5    gleaned that from your testimony, that you had asked  
6    them for some sort of hearing.

7           A.    No.

8           MR. BUSBY:  Objection.  Argumentative.  
9           Go ahead.

10          THE WITNESS:  What I stated earlier is I  
11   began to speak about the Beaulieu incident, but I  
12   was immediately cutoff --

13          COURT REPORTER:  I'm sorry --

14          MS. PARKS:  I didn't catch that.  You were  
15   fading out.

16          THE WITNESS:  When I began to speak about  
17   the Beaulieu incident that day, I was immediately  
18   cutoff and said the decision's already made.  It was  
19   evident to me that there was nothing I could say  
20   that would change anything.

21   BY MS. PARKS:

22          Q.    Have you ever reviewed the Collective  
23   Bargaining Unit in place between Churchill County  
24   Sheriff's Office and Churchill County?

25          A.    I have reviewed it during my employment